

EXHIBIT 8

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

VIRTAMOVE, CORP.,)
)
) CASE NO.
 PLAINTIFF,) 7:24-CV-00030
)
)
 v.)
)
)
 AMAZON.COM, INC.; AMAZON.COM)
)
 SERVICES LLC; AND AMAZON WEB)
)
 SERVICES, INC.,)
)
)
 DEFENDANTS.)
)

VIDEOTAPED DEPOSITION OF DONN ROCHETTE
TAKEN REMOTELY VIA ZOOM VIDEOCONFERENCE
TUESDAY, SEPTEMBER 10, 2024
11:04 A.M. CDT

REPORTED BY AUDRA E. CRAMER, CSR NO. 9901

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1	I N D E X	
2	EXAMINATION	PAGE
3	BY MR. ANAPOL	5
4	BY MR. TONG	95
5	BY MR. ANAPOL	139
6	BY MR. TONG	155

E X H I B I T S		
9 NO.	PAGE	DESCRIPTION
10 1010	14	US PATENT 7,519,814
11 1009	18	ARCHIVE VERSION OF THE
12		HOMEPAGE ONCORE SYSTEMS
13		CORPORATION
14 1011	24	US PATENT 7,784,058
15 1012	42	AUSTRALIAN UNIX SYSTEMS
16		USER GROUP NEWSLETTER,
17		VOLUME 8, NUMBER 5
18	QUESTIONS INSTRUCTED BY COUNSEL NOT TO ANSWER	
	PAGE	LINE
19	144	7
	145	2
20	REPORTER'S NOTE: All quotations from exhibits are	
	reflected in the manner in which they were read into the	
21	record and do not necessarily indicate an exact quote	
22	from the document.	

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1 VIDEOTAPED DEPOSITION OF DONN ROCHETTE,
2 TAKEN REMOTELY VIA ZOOM ON BEHALF OF THE DEFENDANTS
3 AT 11:04 A.M. CDT, TUESDAY, SEPTEMBER 10, 2024, BEFORE
4 AUDRA E. CRAMER, CSR NO. 9901, PURSUANT TO SUBPOENA.

6 APPEARANCES OF COUNSEL.

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ALSO PRESENT

BILLY FAHNERT, VIDEOGRAPHER

1 REMOTELY VIA ZOOM VIDEOCONFERENCE
2 TUESDAY, SEPTEMBER 10, 2024, 11:04 A.M. CDT

THE VIDEOGRAPHER: We are on the
record. This is the remote video deposition of
Donn Rochette in the matter of VirtaMove Corp.
versus Amazon.com, Inc., et al., filed in the
United States District Court for the Western
District of Texas.

10 My name is Billy Fahnert. I am the
11 video technician today. The court reporter is
12 Audra Cramer. We both represent Digital
13 Evidence Group.

14 Today's date is September 10, 2024.
15 The time is 11:04 a.m. Central Standard Time.

16 All parties have stipulated to the
17 witness being sworn in remotely.

18 Will Counsel please identify yourselves
19 for the record, and then the witness will be
20 sworn in.

21 MR. TONG: This is Peter Tong from Russ
22 August & Kabat on behalf of VirtaMove

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Donn Rochette

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1 **Q. Was it Trigen AE?**
 2 A. Oh, yeah. That's it. Yes. Thank you.
 3 **Q. And --**
 4 A. Yeah. Yes.
 5 **Q. And did the "AE" stand for "application**
 6 **environment"?**
 7 A. Yes, I did.
 8 **Q. And you worked on several patents while**
 9 **you were at Trigen; correct?**
 10 A. Yes.
 11 **Q. And do you understand that two of those**
 12 **patents are asserted in this case?**
 13 A. Yes.
 14 **Q. And I'm just going to show you some**
 15 **documents to help with this discussion.**
 16 A. Okay.
 17 MR. ANAPOL: And so I'm going to ask
 18 Billy to mark them, but first I have to put them
 19 where Billy can see them.
 20 So, Billy, could you go ahead and mark
 21 Document A as Exhibit 1010, please. 1010.
 22 THE VIDEOGRAPHER: Okay. Give me one

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1 moment to pull it down.
 2 (Whereupon, Exhibit 1010 was
 3 marked for identification.)
 4 BY MR. ANAPOL:
 5 **Q. And, Mr. Rochette, do you recognize**
 6 **Exhibit 1010?**
 7 A. Yes.
 8 **Q. And this is a copy of US Patent**
 9 **No. 7,519,814.**
 10 **Do you see that --**
 11 A. Yes.
 12 **Q. -- in the upper right?**
 13 A. Yeah.
 14 **Q. And you are listed as the first named**
 15 **inventor on this patent.**
 16 **Do you see that?**
 17 A. Yes.
 18 **Q. So where it says "Donn Rochette,**
 19 **Fenton, Iowa, United States," that's you;**
 20 **correct?**
 21 A. That is me, correct.
 22 **Q. And does the '814 patent generally**

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1 **relate to containers?**
 2 A. Yes.
 3 **Q. When did you first become aware of**
 4 **containers?**
 5 A. Early 2000s. Would have been about a
 6 year -- it would have been **about two years**
 7 **before this patent was published.** So, yeah, we
 8 were discussing the concepts and examining ways
 9 of creating an environment where applications
 10 can run -- disparate applications could run,
 11 yes.
 12 **Q. And I just want to clarify one thing**
 13 **you said. You said "about two years before this**
 14 **patent was published."**
 15 **Did you mean published or filed?**
 16 A. Filed. Thank you for the
 17 clarification. Yes.
 18 **Q. So you can see on this page here, on**
 19 **the bottom left corner of the portion that Billy**
 20 **was showing -- Billy, if you scroll up.**
 21 **Under "Related US Application Data," it**
 22 **refers to two provisional applications that were**

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1 **filed in September 2003.**
 2 A. Uh-huh. Right.
 3 **Q. So those are the initial disclosures**
 4 **that this is based on.**
 5 **Is that the filing date that you were**
 6 **referring to --**
 7 A. Yes.
 8 **Q. -- when you were saying two years**
 9 **earlier?**
 10 A. Yes. We would have been discussing and
 11 talking about and envisioning things, yes,
 12 before this was -- before the provisional was
 13 filed.
 14 **Q. And how did you first learn about**
 15 **containers?**
 16 MR. TONG: Objection. Foundation.
 17 BY MR. ANAPOL:
 18 **Q. You can go ahead and answer,**
 19 **Mr. Rochette.**
 20 A. Oh, okay.
 21 I first learned about containers in
 22 discussions with corporate -- with people

4 (Pages 13 to 16)

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Donn Rochette

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1 A. Because Apple's architecture runs in
2 the same way, uses the same kernel we were
3 using.

4 **Q. And who aside from you would know, from**
5 **working at OnCore, how the networking stack was**
6 **implemented?**

7 A. Same thing. Lots of people would
8 understand how it works, maybe not specifically
9 what OnCore was doing, but the architecture, the
10 concept, the techniques would all be well known
11 by anybody at Apple.

12 **Q. And do you know if any software**
13 **developers who worked with you at OnCore are**
14 **still in Northern California?**

15 A. There's a gentleman called George
16 Marrow that's still in Northern California.
17 That's the only one that I know of that I can
18 think of anyway right now.

19 MR. ANAPOL: Mr. Rochette, would you
20 like to take a five-minute break? We've been
21 going for about an hour.

22 THE WITNESS: I would. Thank you.

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1 **discussions with Sun Microsystems that you**
2 **testified about earlier, do you know if they had**
3 **created zones yet at the time.**

4 A. Yes, they had. It was very new, but
5 they were out and released in the product.

6 **Q. I just want to at this point get an**
7 **overview based on your experience working in**
8 **Silicon Valley and with people in Silicon Valley**
9 **about what they knew during the time you worked**
10 **for OnCore. Okay?**

11 A. Okay.

12 **Q. Okay. So -- and I understand you left**
13 **OnCore in 2002; is that right?**

14 A. I don't remember the exact date, but
15 that sounds -- that sounds like the right range,
16 yes.

17 **Q. Or maybe earlier, but by 2002?**

18 A. Yeah.

19 **Q. Okay. So by 2002 did software**
20 **developers in Silicon Valley know that large**
21 **numbers of computers running different operating**
22 **systems could be connected in a network?**

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1 MR. ANAPOL: Back in five minutes
2 everybody?

3 MR. TONG: That's fine with us.

4 THE VIDEOGRAPHER: Going off the
5 record. The time is 11:59.

6 (Recess taken.)

7 THE VIDEOGRAPHER: We are back on the
8 record. The time is 12:09.

9 BY MR. ANAPOL:

10 **Q. Mr. Rochette, before the break you**
11 **mentioned an individual named George Marrow.**

12 A. Uh-huh.

13 **Q. Could you give us the spelling of that**
14 **if you know it.**

15 A. M-a-r-r-o-w.

16 **Q. And --**

17 A. I haven't spoken to George in a long
18 time. You asked if there might be anybody, and
19 that's the only one I could think of who might
20 be around.

21 **Q. Okay. We can check. Thank you.**
22 **At the time that you had it these**

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1 MR. TONG: Objection. Foundation.
2 Calls for speculation.

3 THE WITNESS: Yes, there were many
4 examples of that scenario you just described by
5 that timeframe.

6 BY MR. ANAPOL:

7 **Q. And by 2002 did software developers in**
8 **Silicon Valley know that servers running**
9 **different operating systems could work together**
10 **to provide a service?**

11 MR. TONG: Objection. Foundation.
12 Calls for speculation.

13 THE WITNESS: Yes, there are also
14 examples of that by that date.

15 BY MR. ANAPOL:

16 **Q. Can you give an example?**

17 A. We discussed things with Chase Bank in
18 New York, and they were using Solaris and
19 Windows together to form various applications,
20 Windows being the front end, Solaris being the
21 data management in the back end, together
22 forming a service.

13 (Pages 49 to 52)

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1 Q. That reminds me. One follow-up
2 question about OnCore: So was OnCore selling
3 the operating system we discussed earlier by
4 2021?

5 A. Yes.

6 Q. By 2002 did software developers in
7 Silicon Valley know that software could run
8 inside of containers?

9 MR. TONG: Objection. Foundation.
10 Calls for speculation.

11 THE WITNESS: Yes. The use of the term
12 "containers" is broad, but if you allow yourself
13 a broad definition of "containers," the answer
14 is yes.

15 BY MR. ANAPOL:

16 Q. Did software developers in Silicon
17 Valley by 2002 know that servers could host more
18 than one container?

19 THE WITNESS: Yes.

20 MR. TONG: Same objection, belated.

21 BY MR. ANAPOL:

22 Q. By 2002 did software developers in

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1 BY MR. ANAPOL:

2 Q. By 2002 did software developers in
3 Silicon Valley know that putting an application
4 in a container could prevent the application
5 from interfering with applications in another
6 container?

7 MR. TONG: Same objections. Calls for
8 speculation. Foundation. Calls for a legal
9 conclusion. Not venue discovery.

10 THE WITNESS: Again, in the context of
11 Solaris zones, that would be an accurate
12 statement. At least in the context of Solaris
13 zones.

14 BY MR. ANAPOL:

15 Q. What about in the context of OnCore
16 operating system?

17 A. Yes.

18 MR. TONG: Same objections.

19 THE WITNESS: Well, no, not in OnCore.
20 In Trigen. Excuse me.

21 BY MR. ANAPOL:

22 Q. So did the OnCore containers not

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1 Silicon Valley know that putting an application
2 in a container could prevent the application
3 from accessing files in another container?

4 MR. TONG: Same objection. Calls for a
5 legal conclusion.

6 I'm also objecting to this whole line
7 of questioning again as getting into fact
8 discovery that Mr. Donn Rochette is not
9 obligated to answer during venue discovery.

10 BY MR. ANAPOL:

11 Q. Do you need me to repeat the question,
12 Mr. Rochette?

13 A. Yes, please.

14 Q. Sure.

15 By 2002 did software developers in
16 Silicon Valley know that putting an application
17 in a container could prevent the application
18 from accessing files in another container?

19 MR. TONG: Same objections.

20 THE WITNESS: Yes. In the context of
21 Solaris zones, that is a true statement.
22

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1 confine the applications in the container?

2 MR. TONG: Objection. Calls for legal
3 conclusions.

4 THE WITNESS: Yeah, it's difficult to
5 answer.

6 The Unix applications running with Unix
7 were not separated and could affect each other.
8 Embedded applications were separated.

9 BY MR. ANAPOL:

10 Q. So, in other words, you could have
11 multiple applications in one container?

12 MR. TONG: Objection. Vague.

13 THE WITNESS: In a Unix context, yes.

14 BY MR. ANAPOL:

15 Q. And the applications running in the
16 Unix context on top of OnCore would be prevented
17 from interfering with the applications running
18 on the real-time portion of the operating
19 system; correct?

20 A. Yes.

21 MR. TONG: Objection. Calls for a
22 legal conclusion.

14 (Pages 53 to 56)